Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Joint Petition of Price Cap Holding	)	WC Docket No. 12-63
Companies for Conversion of Average	)	
Schedule Affiliates to Price Cap Regulation	)	
and for Limited Waiver Relief	)	

REPLY COMMENTS OF FRONTIER COMMUNICATIONS CORPORATION

I. INTRODUCTION

Frontier Communications Corporation ("Frontier") hereby submits the following reply comments in response to the Federal Communications Commission's ("Commission" or "FCC") request for comment on the *Joint Petition*.[1]

Frontier is the largest provider of communications services focused on rural America, operating primarily under price cap regulation across its territories in 27 states. The Commission, in its *USF/ICC Transformation Order*, states that it "continues to encourage carriers" to convert from rate-of-return to price cap regulation.[2] As one of the price cap companies seeking to convert its average schedule companies to price cap regulation via the *Joint Petition*, Frontier is

[1] *See generally* Joint Petition of Price Cap Holding Companies for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief, WC Dkt. No. 12-63 (filed Mar. 1, 2012) (*"Joint Petition*"); Wireline Competition Bureaus Seeks Comment on the Petition of Consolidated Communications, Frontier, and Windstream for Conversion of Average Schedule Affiliates to Price Cap Regulation and for Limited Waiver Relief, *Public Notice*, WC Dkt. No. 12-63, DA-12-375 (rel. Mar. 9, 2012).

[2] *In re*: Connect America Fund; A National Broadband Plan for Our Future; Establishing Just and Reasonable Rates for Local Exchange Carriers; High-Cost Universal Service Support; Developing a Unified Intercarrier Compensation Regime; Federal-State Joint Board on Universal Service; Lifeline and Link-Up; Universal Service Reform—Mobility Fund, WC Dkt. Nos. 10-90, 07-135, 05-337, 03-109; GN Dkt. No. 09-51; CC Dkt. Nos. 01-92, 96-45, WT Dkt. No. 10-208, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 11-161 at ¶ 814 (rel. Nov. 18, 2011) ("*USF/ICC Transformation Order*").

answering the Commission's call. The record in this proceeding proves that the Commission should grant the *Joint Petition* in its entirety and without delay.

II. GRANTING THE *JOINT PETITION* IS IN THE PUBLIC INTEREST

The Commission should grant the *Joint Petition* because it is in the public interest to do so. The *Joint Petition* clearly delineates why it is in the public interest to allow Frontier, Consolidated Communications Inc., and Windstream Corporation ("Joint Petitioners") to convert their remaining average schedule companies to price cap regulation:

> Efficient access pricing mechanisms like price cap regulation generate incentives to optimize a carrier's cost structure and promote competition. The price cap rate structure is efficient and price cap regulation is the Commission's preferred mode of such regulation. Price cap regulation will encourage continued efficient operation by the Subsidiaries, which will benefit their customers and provide the companies with a regulatory structure that delivers appropriate incentives.[3]

The *Joint Petition*'s public interest analysis is supported by the United States Telecom Association[4] ("USTelecom"). USTelecom correctly states that the public interest will be served through the proposed conversions because they "will enhance competition, hold steady or reduce access rates, and provide the regulatory incentives acknowledged by the Commission."[5] AT&T is the sole other commenter in this proceeding. Though AT&T disputes the methodology behind the conversion, even AT&T "generally supports Petitioners' request to convert to price caps"[6] and does not provide any objections to the conversions on public interest grounds. Finally, numerous citations throughout the *Joint Petition* and the USTelecom Comments show that the Commission believes that conversion from rate-of-return regulation to price cap regulation is in

[3] *Joint Petition* at 3.

[4] Comments of United States Telecom Association, WC Dkt. No. 12-63 (filed Apr. 9, 2012) ("USTelecom Comments").

[5] *Id.* at 2-3.

[6] Comments of AT&T, Inc., WC Dkt. No. 12-63, at 1 (filed Apr. 9, 2012) ("AT&T Comments").

the public interest.[7] The Commission, in an effort to incent these types of conversions by these types of companies, already treats the companies in this petition as Price Cap for Universal Service purposes, both for frozen high-cost support and under the new Connect America Fund due to the Holding Company being predominantly Price Cap. The public interest benefits of the proposed conversions to price cap regulations is uncontroverted and the Commission should grant the *Joint Petition*'s proposal to convert the named average schedule companies to price cap regulation.

III. THE COMMISSION SHOULD ALLOW THE CONVERTING COMPANIES TO USE NECA RATES UPON CONVERSION

The *Joint Petition* proposes that the converting companies should be allowed to adopt the NECA Tariff No. 5 switched and special access rates; the Commission should grant this request due to the associated efficiency and public interest benefits. AT&T's objections to converting the average schedule using NECA rates are without merit, as demonstrated below.

One of Frontier's primary motivations for converting its average schedule companies to price cap regulation is for efficient implementation of the Commission's terminating access reforms mandated by the *USF/ICC Transformation Order*.[8] Frontier has nearly 100 different study areas amongst its 27 states. The breadth of changes required across those study areas makes the timely implementation of the terminating access reductions extremely resource intensive; Frontier must determine the proper rates and eligible recovery, and also make the necessary tariff changes. The *USF/ICC Transformation Order* established separate transition periods for price cap and rate-of-return companies, with the rate-of-return carriers having an additional two years of

[7] *See Joint Petition* at 7 ("The Commission's price cap rules, adopted in 1990, unambiguously permit an ILEC to elect price cap regulation."); *id.* at 8 ("As the Commission explained in the *LEC Price Cap Order*, price cap regulation 'permit[s] LECs to migrate their rates toward a set of prices that enhances efficiency.'"); USTelecom Comments at 2 ("The Commission has recognized that price cap regulation 'rewards companies that become more productive and efficient.'").

[8] *See generally*, *USF/ICC Transformation Order* at ¶ 801.

transition before reaching bill-and-keep.[9] The two year discrepancy for the transitions creates administrative difficulties that unnecessarily divert scarce resources, so much so that Frontier is willing to forgo certain revenues (two-years of extended terminating switched access revenues) in order to achieve these administrative efficiencies.

AT&T argues that converting to price cap regulation using NECA rates is not in keeping with the traditional cost-study basis upon which previous price cap conversions have been done—and this statement is correct.[10] But AT&T overlooks the fact that the *USF/ICC Transformation Order* is in fact transformational for an entire industry that has structured itself around intercarrier compensation and access charges for decades. Under the Commission's schedule, the intrastate rates established through timely conversion would be slashed for the first time on July 1, 2012, as part of a rapid march to bill-and-keep. As stated above, the price cap transition to bill-and-keep is a shorter transition period than if the companies did not convert these companies to price cap.[11] AT&T admits as such, stating that "[T]he transition to bill-and-keep, which does not begin for interstate rates until July 1, 2014, will undoubtedly eliminate this problem for many of the terminating interstate rates over time. . . ."[12] Similarly targeting of the average traffic-sensitive rates (ATS) rates is also a vestige of a by-gone era that is no longer relevant given the imminent dramatic rate reductions.[13]

The expensive and burdensome cost studies that AT&T proposes are unwarranted because the terminating access will be reduced to zero over a rapid timeframe, with the likely possibility

[9] *Id.*

[10] *See* AT&T Comments at 3.

[11] *USF/ICC Transformation Order* at ¶ 801

[12] AT&T Comments at 3. Frontier notes that AT&T appears to disregard the transition for intrastate rates, which begins in 2012.

[13] *Id.* at 4.

that the Commission will take action on some level of originating reform in the near future. USTelecom aptly states that "as average schedule entities, the subsidiaries have never performed full cost studies, so requiring them to do so now, on a one-time basis would create a particular and unnecessary hardship."[14] Indeed, because Frontier has never done these cost studies on its average schedule companies, such an undertaking would be costly and time consuming for Frontier when significant resources are dedicated to the implementation of the *USF/ICC Transformation Order.* Further, from a practical perspective, USTelecom also accurately points out that completing the cost studies "in time for a July 1, 2012, tariff filing would be impossible."[15] If Frontier were required to conduct a costly and administratively burdensome cost study to convert its average schedule companies to price cap, Frontier would have to reconsider whether the conversion is a wise move at this time. At a minimum, the money spent on a cost study is money that could be better spent furthering the Commission's goals of rural broadband deployment. Clearly, the Commission would not be furthering any of its goals—either of encouraging price cap conversions or broadband deployment—if it were to saddle the converting companies with such impediments. Conversely, granting the *Joint Petition* would further the Commission's public interest goals.

AT&T also errs in its claims that allowing the Joint Petitioners to convert at NECA rates would create a windfall opportunity for the converting companies. Instead Frontier agrees with USTelecom that the NECA-established rates "are reasonable, competitive, and uniform,"[16] and should be used to initialize the converting companies' rates. There is no windfall opportunity because, but for the conversion, Frontier's average schedule companies would be receiving those

[14] USTelecom Comments at 4.

[15] *Id.*

[16] *Id.*

same rates (with slight variations) anyway. Indeed, given the differences in the access recovery formulas between rate-of-return and price cap carriers, Frontier will actually recover less of its lost terminating access revenues as a price cap provider than it would as an average schedule company. Concern of a "windfall" is a scare tactic. Further, if AT&T is concerned that removing the Joint Petitioners from the average schedule pool would increase overall pool costs, then that too is in error as these rates are capped as of the effective date of the *USF/ICC Transformation Order*.

AT&T has presented no evidence to justify using burdensome cost studies that are unnecessary in this time of rapid access rate transitions. Even though the current reform does not encompass originating access, the Commission has clearly indicated its policy goal of quickly bringing originating access rates to bill-and-keep.[17] Frontier agrees with USTelecom that using NECA rates "obviates the need for subsidiaries to perform expensive, burdensome and impracticable cost studies" of which "the benefits are, at best, speculative."[18]

[17] *See USF/ICC Transformation Order* at ¶ 822 ("We find that originating charges also should ultimately be subject to the bill-and-keep framework.).

[18] USTelecom Comments at 4.

IV. CONCLUSION

For the foregoing reasons Frontier respectfully requests the Commission to quickly adopt the *Joint Petition* in its entirety.

Respectfully submitted,

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